

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition of the	)	
Connecticut Department of Public Utility Control	)	
for Delegated Authority to Implement	)	CC Docket No. 99-200
Transitional Service-Specific	)	
and Technology-Specific Overlays	)	NSD File No. L-02-03

**COMMENTS OF THE CELLULAR TELECOMMUNICATIONS & INTERNET  
ASSOCIATION**

The Cellular Telecommunications & Internet Association (“CTIA”),<sup>1</sup> hereby submits its comments on the petition filed by the Connecticut Department of Public Utility Control (“CT DPUC”) for additional delegated authority to implement a transitional service specific (“SO”) or technology-specific (“TSO”) overlay.<sup>2</sup> While reasonable in many respects, the CT DPUC Petition does not comply with the standards

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<sup>1</sup> CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

<sup>2</sup> See *Common Carrier Bureau Seeks Comment on the Petition of the Connecticut Department of Public Utility Control for Delegated Authority to Implement Transitional Service-Specific and Technology-Specific Overlays*, CC Docket No. 99-200, NSD File No. L-02-03 (rel. Feb. 6, 2002) (“*Public Notice*”); *Petition of the Connecticut Department of Public Utility Control for Authority to Implement a Transitional Service/Technology-Specific Overlay in Connecticut*, CC Docket No. 99-200 (Jan. 18, 2002) (“CT PDUC Petition” or “Petition”).

for such overlays recently established in the *Third Report and Order* in this docket.<sup>3</sup> Because the CT DPUC Petition presents the Commission with its first opportunity to apply the eight specific criteria set forth in the *Third Report and Order*,<sup>4</sup> it is of critical importance that the Commission fully examine and provide its analysis regarding each element of the Connecticut proposal in a way that will provide guidance to other state commissions considering SO's as an alternative to more traditional forms of area code relief. At a minimum, the CT CPUC must supplement its Petition to permit the Commission to conduct the inquiry required by the terms of the *Third Report and Order*.

In March 2001, the CT DPUC originally sought permission to deploy a transitional overlay to serve non-LNP capable carriers.<sup>5</sup> On January 18, 2002, following release of the *Third Report and Order*, the CT DPUC supplemented its request, and attempted to address each of the eight factors set forth by the Commission. As described below, the CT DPUC Petition suffers from procedural inadequacies and fails to comport with the Commission's rules. The most appropriate course under these circumstances is to require the CT DPUC to re-file a revised petition. While not our intent, CTIA

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<sup>3</sup> *Numbering Resource Optimization, Third Report and Order, CC Docket No. 99-200 (rel. Dec. 28, 2001) ("Third Report and Order")*.

<sup>4</sup> *Third Report and Order* at ¶81. The eight criteria include: (1) the technologies or services to be included in the SO; (2) the geographic area to be covered; (3) whether the SO will be transitional; (4) when the SO will be implemented and, if a transitional SO is proposed, when the SO will become an all-services overlay; (5) whether the SO will include take-backs; (6) whether there will be 10-digit-dialing in the SO and the underlying area code(s); (7) whether the SO and the underlying area code(s) will be subject to rationing; and (8) whether the SO will cover an area in which pooling is taking place.

recognizes that this may have the effect of mooted the CT DPUC Petition simply because CMRS carriers are preparing to deploy Thousands-Block Number Pooling on November 24, 2002, and this will eliminate the predicate for the relief sought by the CT DPUC before any action by the Commission could be implemented by the North American Numbering Plan Administrator and the public educated about a new dialing plan in Connecticut.

## DISCUSSION

The CT DPUC correctly recites the eight criteria identified by the Commission in its *Third Report and Order* that a state commission must address in its petition to obtain authority for delegated authority. However, the Petition fails to sufficiently address each criterion to “enable the Commission to examine the feasibility of SOs in a particular area, and determine whether the Commission’s stated goals are likely to be met if the SO is implemented.”<sup>6</sup> Furthermore, the CT DPUC has failed to provide sufficient detail that would show “why the numbering resource optimization benefits of the proposed SO would be superior to implementation of an all-services overlay.”<sup>7</sup>

### 1. Technology-Specific Overlays.

For the reasons identified by the Commission in the *Third Report and Order*, the proposed service overlay should be transitional. A transitional overlay is consistent with the Commission’s determination that transitional overlays “may provide some of the

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<sup>5</sup> See *Petition of the Connecticut Department of Public Utility Control for Authority to Implement a Transitional Service/Technology-Specific Overlay in Connecticut*, CC Docket No. 99-200 (March 12, 2001).

<sup>6</sup> *Third Report and Order* at ¶81.

<sup>7</sup> *Id.*

relief that proponents of SOs are seeking but limit the potentially discriminatory effects of creating a permanent SO.”<sup>8</sup> While the CT DPUC has requested a transitional overlay, its Petition strays from the Commission’s guidance when it proposes to use the exhaust of the underlying code as a trigger point to transition the SO to an all-services overlay.<sup>9</sup> In the *Third Report and Order*, the Commission concluded that transitioning into an all-services overlay when wireless carriers became pooling-capable would enhance the benefits of number pooling.<sup>10</sup> This is fully consistent with the Commission’s determination that the most significant advantage of a SO is to make numbers available to non-pooling carriers.<sup>11</sup>

Furthermore, the CT DPUC has failed to meet its burden of “demonstrating why the transition should not occur when wireless participation in pooling commences” and explaining “how the proposed transition mechanism meets [the FCC’s] numbering resource optimization goals and equitably balances the interests of affected carriers and consumers in their proposal for transitioning SOs to all services overlays.”<sup>12</sup> The CT DPUC has neither demonstrated why it has proposed a service overlay that may be permanent, since the underlying NPA may be “extended indefinitely,”<sup>13</sup> nor shown how

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<sup>8</sup> *Third Report and Order* at ¶84.

<sup>9</sup> See CT DPUC Petition at 7 (stating the “CTDPUC believes that it would be more practical to require the SO to become an all services overlay when the underlying NPA exhausts.”).

<sup>10</sup> *Third Report and Order* at ¶87.

<sup>11</sup> *Third Report and Order* at ¶77.

<sup>12</sup> *Third Report and Order* at ¶87.

<sup>13</sup> See CT DPUC Petition at 7.

its proposal equitably balances the interests of carriers and consumers. Since the CT DPUC has failed to proffer any evidence explaining why the transition should occur at a time other than when the carrier becomes pooling-capable, CTIA urges the Commission to adhere to its rule that transitional service overlays for non-pooling capable carriers become all-services overlays when they become pooling-capable or when the underlying code reaches exhaust, whichever occurs first.

## **2. Take Backs of Legacy Numbers**

In its Petition, the CT DPUC glosses over the take back of legacy numbers, and offers no assurance that it will not engage in such activity. In fact, the CT DPUC suggests that it will take back existing telephone numbers of non-geographic services<sup>14</sup> without defining what constitutes a non-geographic service. The CT DPUC's failure to adequately address the "take back" of legacy wireless codes amounts to a procedural deficiency that must be addressed before the Commission can properly act on the CT DPUC Petition.

Contrary to the Commission's acknowledgement that take backs "have significant drawbacks and costs which need to be considered in determining whether a SO should include take backs,"<sup>15</sup> the Petition does not include an analysis of the potential costs and benefits of take backs. The framework provided by the Commission in its *Third Report and Order* requires a "strong showing that the consumer and industry costs associated

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<sup>14</sup> See CT DPUC Petition at 7-8 (stating that it "will work with the carriers to assign prospective and existing subscribers TNs from the new SOs" and "take-backs will be limited to those cases described above").

<sup>15</sup> *Third Report and Order* at ¶88.

with take-backs are outweighed by the optimization benefits of the take-backs.”<sup>16</sup> In addition, the Commission has recognized the Commission’s duty to “ensure that the costs and benefits of take-backs are given a careful consideration.”<sup>17</sup> Thus, the Commission must deny the CT DPUC’s Petition because it has failed to specify the take back authority it seeks.

### **3. Ten-Digit Dialing**

As the Commission has recognized, Ten-Digit Dialing (“TDD”) “when an overlay is implemented would maximize numbering resource optimization” and “minimizes anti-competitive effects due to dialing disparities, which, in turn, avoids consumer confusion.”<sup>18</sup> The Commission has stated that it will “favor SO proposals that include ten-digit dialing in the SO NPA as well as the underlying area code, in the same manner that ten-digit dialing is required when all-services overlays are implemented.” Despite the Commission’s clear guidance on TDD, the CT DPUC claims that TDD is not necessary at this time. However, the CT DPUC neither requests a waiver of TDD in its Petition nor states when a requested waiver would terminate. Given the strong public policy reasons supporting TDD, where a state commission’s analysis is unclear as to whether it requests a waiver from TDD, the Commission should require TDD as a condition for granting a state commission request for authority to implement SOs that fails to satisfy the procedural analysis required by the Commission in its *Third Report and Order*.

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<sup>16</sup> *Third Report and Order* at ¶90.

<sup>17</sup> *Third Report and Order* at ¶90.

<sup>18</sup> *Third Report and Order* at ¶92.

## **CONCLUSION**

For these reasons, CTIA respectfully requests that the Commission require the CT DPUC to supplement and re-file its request for authority to implement a service overlay.

Respectfully submitted,

/s/ \_\_\_\_\_

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